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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**OAKLAND DIVISION**

FINJAN, INC., a Delaware Corporation,

Plaintiff,

v.

BITDEFENDER INC., a Florida Corporation,  
and BITDEFENDER S.R.L., a Romanian  
Corporation,

Defendants.

Case No: 4:17-cv-04790-HSG

**DEFENDANTS' REQUEST FOR  
JUDICIAL NOTICE RE: JUDGE  
ALSUP'S ORDER GRANTING EARLY  
MOTION FOR SUMMARY JUDGMENT  
ON '780 PATENT**

**BITDEFENDER'S REQUEST FOR JUDICIAL NOTICE**

Bitdefender Inc. and Bitdefender S.R.L. (together, "Bitdefender") file this Request for Judicial Notice of an Order Granting Early Motion for Summary Judgment on Finjan's Patent No. 6,804,780 ("the '780 patent"), which has also been asserted by Finjan in this case. That Order, attached hereto as Exhibit A, was issued by Judge Alsup in the case *Finjan, Inc. v. Juniper Networks, Inc.*, No. C 17-05659 WHA (N.D. Cal.) on August 12, 2018. In granting summary judgment in connection with the '780 patent, the Court construed that patent. This Court held a claim construction hearing on various Finjan patents, including the '780 patent, on June 6, 2018.

For convenience of the Court, the term at issue, construction adopted by the *Juniper* court in granting summary judgment in connection with the '780 patent, and constructions proposed by Bitdefender and Finjan are summarized in the following table:

Patent (Claims)	Term	<i>Juniper</i> Court's Adopted Construction	Bitdefender's Proposed Construction	Finjan's Proposed Construction
'780 (1,9,17,18)	"performing a hashing function on the Downloadable together with its fetched software components to generate a Downloadable ID"	"performing a hashing function on the Downloadable together with its fetched software components to generate a single hash value that identifies the contents of both the Downloadable and the fetched components"	"performing a hashing function that operates across the combination of a Downloadable together with its fetched software components to transmute the Downloadable and its fetched components into a unique and reproducible ID for that Downloadable"	"performing a hashing function on the Downloadable together with its fetched software components to generate a Downloadable ID"

Judicial notice is warranted here given a contemporaneous order of the court construing the '780 patent. "[T]he Supreme Court has stressed the particular importance of intrajurisdictional uniformity in claim construction." *Finjan, Inc. v. Symantec Corp.*, No. 14-cv-01998-HSG, 2017 WL 550453, at \*3 (citing *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 384 (1996)).

1 The interest in uniformity would seem to weigh most heavily where, as here, a court in this  
 2 District issues a claim construction order shortly before another is likely to be issued in the same  
 3 jurisdiction with few if any intervening legal developments. *See Rambus v. Hynix Semiconductor*  
 4 *Inc.*, 569 F. Supp. 2d 946, 965 (N.D. Cal. 2008) (surveying cases including one promoting  
 5 “considerable deference . . . to . . . prior decisions unless overruled or undermined by subsequent  
 6 legal developments” (citing *Sears Petroleum & Transport Corp. v. Archer Daniels Midland Co.*,  
 7 No. 5:03-CV-1120 (DEP), 2007 WL 2156251, at \*8 (N.D.N.Y. July 24, 2007)).

8 For these reasons, Bitdefender requests judicial notice of the order in *Finjan, Inc. v.*  
 9 *Juniper Networks* attached as Exhibit A.

10 Dated: August 14, 2018

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 17 *Bitdefender Inc.*